F. IX-4

ious References

193 6-2
65

File No. 20 3-26

Serial Nos. 1—6

Premature

Later References

Cb 51-30-2
Cb Dep 210-31
CS 67-32-4
CS Dep 166-33
" " 84-34
" " 130-34
Cb Dep 41-36
" " 221-36
" " 260-37
CB 116-60(8)

Serial Nos. Lix

PRESERVED

Latin Ref
cb. 80/39 (18)

General and Revenue Secretariat.

Part B for July 1930

SUBJECT

Land Transfer Bill to amend the Land-Tax Regulation, 1900. (Laws delays Committee Report).

7 Dec,
M Grieve
25.7.30

(For disposal by circulation)

No. C. 186.

1925-28

GENERAL AND REVENUE SECRETARIAT

Council Matter.

SUBJECT.

Bill to amend the Mysore Court Fees Regulation - 1900.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

1st November 1927.

Chief *Secretary to Government.*

Extraordinary Member of Council.

3488/2/11 **First Member of Council.** 1.11.27

2343/2/11 **Second Member of Council** 2-11-27

Third Member of Council.. GPB—1,000—28-8-14

3661/7/11 For favour of Final Note

7/11

FIRST MEMBER) 7/11

Final note signed by member is placed on file

8/11

(For Disposal by Circulation

No. C. 447
2.11.1926-27

GENERAL AND REVENUE SECRETARIAT. (2

Council Matter.

SUBJECT.

Bill further to amend the Mysore Court Fees Regulation 1900.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

M. S. Rama Rao
Chief Secretary to Government.

2nd June ..... 19 27.

Extraordinary Member of Council.

First Member of Council. Lapse 2/6

Second Member of Council. Lapse 2/6

Third Member of Council. (on leave)

447 of 26-27

D861

Extract of the L.&.L. Secretary's opinion on G.F.File No.40 of25 dated the 10th August 1925.

The object of passing the succession certificate Regulation VII of 1901 is to afford protection to parties paying debts to the representatives of deceased persons.

2 The Regulation provides for the extension of certificate (vide Section 10). The effect of such extension is stated to be that ~~and~~ every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

3 Hence it may not be proper to refuse to take cognizence (vide Sec. 10) of the extended certificate on the ground that the holder has paid lesser amount of Court fee that he would have to pay if he had originally applied for the whole amount.

4 The Court Fee Act is a fiscal enactment and has no manner of changing the substantive Law. The Government must be considered a debtor to the late Mr. M.S. Narayana Rao and will be well protected by payment of its debt to the holder of a succession certificate under the Regulation and will have no power to compel the holder to act in a particular manner contrary to the provisions of the Regulation.

5 In the present case the holder has acted in accordance with the provisions of the Regulation. The loss noticed is due to the defect if any in the Regulation ~~from~~ for which the Legislature is responsible and not the party.

6 Hence I am of opinion that cognizance should be taken of the extension of the certificate.

"Extract"

M. Ananthanarayana Iyengar

Superintendent,
Financial Branch.

7 The Stamp Section for perusing the question of Stamp Duty on extension certificates - referred to in the above note 8.25

Serial No

6 under schedule I (12) - Art. 21. of the Court Fees Regn. two percent of stamp fee on the amount or value indicated in the succession certificate has to be levi when ~~the~~ such amount or value does not exceed five thousand rupe and three percent on the value or amount when it is extended un Sec. 10 of the Succession Certfica Regn. When the value exceed five thousand, 3 per cent of cou fee has to be levied on the orgin certificate & 4½ percent on the amount or value specified on the ~~extension~~ extended certificat

7. To escape higher Stamp duty the parties applying for Succession certificate may split up the valu for which certificates are requir for instance if a certificate for Rs. 6, is required, the party may first appl for a certificate for Rs. 5000/- or le and pay a stamp duty of 2 per cent thereon and then apply for an extension certificate & pay a Stam fee of 3 percent thereon whereas under the rules, he is liable to a Stamp fee at 3 percent on the whe amount if the original certifica is for Rs. 6000/-

L

Serial No

13 In the interest of Stamp revenue it appears necessary to amend Sec. 6 of the Succession Certificate Regn of 1901. so that there may be no evasion of ~~The liability to pay~~ the proper Stamp duty under the Court Fees Regn.

~~Sub. for d~~

14. If approved, the question will be referred to the Protection Dept (Legis. Section) for needful action. This will be another measure in the direction of the ~~Sub. for d~~ improvement of Stamp revenue

By. 28/8 Rev Secy

mad 30/8/25

This question arose in the Fin Dept in connection with a Succession Certificate obtained in respect of some Stock & Securities. The opinion of the Lt. Secy on that Case extracted on page 1 above shows that there is room now to evade the payt of proper Stamp duty due under the Stamp Regn

mad 30/8/25

Case worked to show this in the list of measures for improvement of Stamp revenue

mad

12. I am not sure if an amendment of the Law is necy. If there has been any fraudulent omission of the debt in the first application to a Court, it is open to prosecution under Section 6 cl. (2).

Mean compare the Bombay Land Revenue Code Regn.

6. We may consult the Stamp Department also

h
21-8-25

13

~~Draft to~~ If approved, this file may be sent to Stamp Commr unofficially

Serial No

in the first instance for favour of remarks.

B.J. 7/9

14 The point is that the petitioner in this case split up the claim and thus escaped paying the higher court fee that would otherwise have been payable. The Regulation has perhaps therefore to be changed so that when an extension certificate is obtained ~~for~~ if ~~consequent~~ on the later debt on age of which this extension certificate has been duly obtained were known at the first stage when the original certificate was obtained a higher Stamps duty should have been payable on the entire debt including the debt included in the original certificate, the higher duty should be recovered on the debt included in the original certificate at the time extension certificate is applied for.

15 In the present case (I mean the case which was referred to the L+L Secy) the party applied for a Succession certificate in respect of certain Securites of the value of 4,400 but omitted to include the interest on the Securities which had accrued on the debt which amounted

C107 D861 5

[App. F. III—2

General and Revenue Secretariat | File No. | of 192 .

Serial No

to nearly Rs 1,200 (although the debt for which the Succession Cert was applied for should have included the interest due thereon). If this had been included at the time the Succession Certificate was applied for he should have had to pay a Court fee of 3% on the entire amount. As it is the party has paid 2% on 4,400 and 3% only on the interest for which an extension Certificate was obtained at the instance of the Comptroller's office. While I do not mean to suggest that this procedure was adopted to escape payment of a higher fee on the whole amount the fact remains that Govt has lost legitimate Revenue.

16 I do not think we can proceed under Section 6 Clause 2 of the Succession Act in every such case Regn as it would be difficult to prove malafides.

17 The opinion of the Ld Secy is that there is a defect in the Law which requires amendment.

18 There may be many such cases going on daily & it is desirable that early action should be taken.

19 As desired in para 6 the file will be forwarded U.O. to the Commissioner of Stamps for opinion.

Bz
11/9

Rer Secy) 20 yrs. plan.
h
20/9/25

21 Forwarded unofficially with compts. to the Comr of Stamps in Mysore for favour of opinion.

B. Nagendra Rao

On Section 6 clause 2 of our Regn is identical with Section 6 clause 2 of the Indian Succession Act-II of 1889.

NOTE—Contn. Sheet

861/V

8 6

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General and Revenue Secretariat

File No. Cacf/no 2 of 192 .

Serial No

22

RETURNED WITH COMPLIMENTS.

2. I agree that an amendment of the law is necessary in order to prevent loss of revenue to Government in cases like the one brought to notice. The following proviso may be added to clause (1) of Article 12 of the Court Fees Regulation (as amended up to date) "Provided that when the aggregate value of the debts or securities included in both the original and the extended certificate exceeds Rs. 5,000/-, the duty on the extended certificate will be such as to make the total duty on both the cerificates equal to three percent of the aggregate value".

5/6/25

Commissioner of Stamps in Mysore.

N.O.

To

The Secretary to Government,

Revenue Department.

23

Please put up the Court Fee Reg. - When was the change in the Schedule requiring an enhanced fee for Rs. 5000 effected. Represent to the Objects & Reasons of the amendment might be made, so that the purpose in view might be attained and further action in this matter - The question is of public importance and requires very careful attention -

h

6/6

very Early

B

6/6

Note—Contn. Sheet

Serial No

24. The new scale of fees referred to in para 23 of the notes was brought into force by Regulation VIII 1922 ~~advocates~~ amending ~~the~~ ~~Ad. Court Fees~~ Regulation. The Protection Branch may be requested to put up the Bill which took final shape as Regulation VII of 1922 with a view to ascertain from the "~~objects~~ aims and objects" of the Bill ~~the~~ reasons for the ~~abnormal~~ enhancement of the fees on probates as required by the Revenue Secretary in para 23 of the notes.

21.10.25

25. To the Prot^n Br with compliments for kindly putting up the references and furnishing the information required by the Revenue Secretary

24.10.25

26 The Bill with the statement of objects and reasons has been published in the Supplement to the Fort St. George Gazette dated 26.8.22. Sheaves of the Bill are not available in the Branch. Something more than 100

26.10.25

Note—Contn. Sheet

Serial No

The mere Bill is wanted apparently - The file leading to the measure maybe obtained perhaps.

Reg 27.10

27

Submitted with the connected file. The Bill is at Colgong.

28 Sec 10 of the Succession Certificate Regulation may have to be considered in this connection. The Bill relating to Court-Fees Amendment is put up. The only question then was raising the rates & no reasons are assigned for any particular change.

Fin (Sects) Reg

29 There is nothing in the "Objects and reasons" of the Bill of 1922 amending the Court fees Regulation to indicate why the fees were enhanced beyond the fact that the Schedule of fees payable under the Court Fees Regulation were enhanced by the amending Regulation 1922 & so as to increase the revenue from Court fees by 25 per cent. A copy of the Court Fees Regulation is put up. May the file be sent to

Note—Contn. Sheet

Serial No

A

The Protection Branch for taking action to amend the Regulation on the lines suggested by the Comm. of Stamps? Submitted for orders with reference to para 23 of the notes

29.10.25.

Rev. Sec.)

CJ 31.10.25

30 The proposal at A may be approved

2nd member) k 3.11.25

4/29/4/91

31 Lajpat Lee 5/11 k

B

Protection Br with Compliments)

Rec'd 11/2

32 Secy. with a draft Bill amending Art. 12 of the Court Fees Regn. ~~for the purpose of consideration in connection with~~

Secy. for orders. The principles of legislation had to be approved in Council by H.E. before a statement is placed before the L.A.

32 Govt. Pro. 8/3/26

Note—Contn. Sheet

Serial No.

84 Please type the draft—
14/5

35
Lay 14/5
Issued with typed draft

86 A draft Bill with the Statements of Objects & Reasons
Laid for consideration
Issue 13/5 Draft 13/5
11662/16/5
Leg Dept) 14/5

37 Draft Bill is all right.
14-5

38) If the Regn is proposed to be amended as per Regns of L-D. Dept it is best to have a single amendg bill for all amendments of the Regn. (one bill for each Regn is the best)
14/5

Lay 18/5

Noe 17/5
17.5
17/5

The Courts Section is requested kindly noting when the amendments required can be ready.
Issue 18/5

5396/26
P

App. F. III—2]

13 11

General and Revenue Secretariat. | File No. | of 192

DEWAN'S OFFICE
Received on
30. MAY 1927
Reg. No. 4823

Serial No. 39

Subd with a revised Bill & Statement of objects and reasons

12239/27/5

Draw 26/5/27

40 This Bill Contains two clauses relating to the recommendation of the L.D Committee & also a clause relating to the proposal by the Finance Dept to amend art 12 (2) of the I schedule. The Statement of Objects & Reasons explains the necessity for the amendment.

Ch: Secy & Members) 27/5

41 Law Secy may please scrutinise the amended bill also before being put before EA (as he is now on leave) 27/5

42 Bill may, if Dewan approves be circulated & DPI for sup. (Very short D.F.Rs will suffice for amendments Cont & Objects & Reasons) 27/5

43 30/5

Dewan) 30/5

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

2/6/27 (C.B) 31/5 31/5

App. F. III—2]

5396

14.

12

General and Revenue Secretariat.

File No. of 192 .

DEWAN'S OFFICE.
Received on
7 JUN. 1927
Reg. No. 9563

Serial No. 44

D. L. M. Shiva as directed

Draft
6.6.27
Approved

12664/6/6

45 I member) 6/6

F. N. Signed by Member.

Dewan

4/6 Please put up
S.N.

S.N. put up.

8/
7.6
26
7.6

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

G.R. S. III -1] 1926-27 Dno 3049 P 26

GENERAL AND REVENUE SECRETARIAT. 153

Conds

NOTES.

File No. 203-26

FILE HEADING.

Payment of court fees in instalments (L.D. committee's report)

PAYMENT OF COURT FEES.

384 Lastly, we would refer to the question of payment of Court fees in instalments. The present practice is for the whole of the court fees being paid at the time of the institution of the suit or appeal. If the suit or appeal is subsequently disposed of without contest by agreement of the parties, the plaintiff or appellant is entitled to a refund of half the amount of fees paid on the plaint or memorandum of appeal under Section 17 A of the Mysore Civil Courts Regulation. It is understood that representations have been made in the Representative Assembly for the payment of court fees in instalments. In this connection, it will be useful to quote the observations of the Indian Taxation Enquiry Committee at page 252 of their Report :--

"The other system .....is that in force in the county courts in England, under which the fee is paid

in two instalments, one at the institution of the plaint and the other at the trial or hearing, and in cases where judgment is entered up by the consent or in the absence of the defendant, the hearing fee is only one-half of the hearing fee which is payable in other cases. The Committee are disposed, on full consideration of the matter, to recommend that effect should be given to the principle of measuring court-fees by the cost of the service rendered to the extent of taking the fee in two instalments, the first being payable at the institution of the suit, and the second on or immediately after the settlement of issues".

(4) (2) 385

We recommend that the plaintiff should be called upon to pay at the time of the institution of the suit only half the court fees payable under the Court fees Act. If the suit is disposed of without contest, there will be no necessity for any refund. If the suit passes on to the stage of contest, the plaintiff may be called upon to produce the balance of court fees within a fixed time and the suit proceeded with further. The tendency of unduly delaying

the payment of the subsequent instalment of court fees may be checked by sufficient care being taken that the rule is not worked with undue laxity or that long adjournment periods are not granted for this purpose. The advantage to the litigants will be considerable, while, so far as scriptory work in the office is concerned, there will be reduction in the writing of refund cheques, register, etc. From the financial point of view also, it will be better that under receipts nett receipts instead of gross receipts minus refunds are calculated and shown.

C.T.!

Serial No.	Subj
50	3) The proposal involves the amendment of section 3 of the Court fees Regulation no III of 1900.
51	4) Section 3 of the Regulation runs as follows "No document of any ~~kind~~ of the kinds specified as chargeable in the first or second schedule to this Regulation annexed shall be filed, exhibited or recorded in any ~~of~~ Court of justice or shall be received or furnished by any public officer unless in respect of such document there be paid a fee of an amount not less than that indicated by letter of the said schedules as the proper fee for such document."
52	5) Section 42 under which ~~govt~~ have taken powers to reduce or remit or vary the fees mentioned in the schedules runs as follows: "The ~~govt~~ may from time to time, by notification in the official gazette, reduce or remit in the whole or any part of mysore, all or any of the fees mentioned in the first and second schedules to this Regulation annexed and may in like manner cancel or vary such order."
53	6) If the proposal is to be given effect to, an ~~amendment~~ ~~provision~~ may perhaps be ~~added~~ made to section 3 ~~as proposed~~ "except ~~as provided~~ " in accordance with the rules framed by govt under section 42."
54	7) A notification has also to be issued under section 42 to the effect that payment of court fees may

NOTE—Contn. Sheet

Serial No.

be made in 2 instalments.

57) P/ The only objection to the proposal may perhaps be in cases where the plaintiff has filed a suit and before it reaches the contested stage becomes insolvent. In such cases the suit may be proceeded with as in pauper suits and the court fees made a first charge on the assets of the insolvent. But such cases are of very rare occurrence and may be neglected.

57) Q) The High Court may perhaps be consulted as to whether section 3 of the Regulation has to be amended and a notification issued under section 42 of the Regulation if the proposal is to be sanctioned and if so to suggest draft amendment and notification for the consideration of Govt.

Submitted for orders.

B/ 11/1/27 57) D) The amendment suggested above (to sec 3 does not seem to serve the purpose, as a rule prescribing payment of Court fees in instalments cannot be framed under sec 42, which relates to the reduction or remission of Court fees either wholly or in part. If the proposal of the Courts is to be accepted, the amendment to sec 3 may perhaps be by the addition of the words 'in such manner as Govt may by notification in the Official gazette prescribe' between the words 'paid' and 'a fee' occurring in the section.

APO 11/1

NOTE—Contn. Sheet

Serial No.	
	CS 19-7-25 Ref 105 re (58) 11) First Member's orders in the file re the reduction of Court fees for small cause cases (D no 302/26.
	M (illegible) The suggestion of the Law's Delays Committee to pay fees in 2 instalments may be adopted for the present. We cannot afford to reduce the fees especially when it is proposed to spend more money on courts.
	x x x
	2nd K.E. 8/2/27
	Secy.
12 (57)	Kind reference is invited to para 10 above and if the proposal therein made is approved, action would have to be taken to amend the law.
	8/ 20/2/27 AMR 21/2 (58) 13 Action has to be taken after the issue of G.O. on the L.D. Cmtee's report.
	8/ 2/3
CS 8/3	Secy
(61) 14	orders on the report of the Law's Delays Committee have been passed. This is one of the cases in which first have to taken action.
para 11 above (62) 15	As the First Member has accepted the recommendations amendments to the Court Fees Regulation have to be put up. If approved the file may be transferred to the Legis section for preparing a bill.
(63)	Secy for orders. 16) What the form of the amendment should be has already been noted upon. Orders
	8/ 8/11/27

NOTE—Contn. Sheet

Serial No.

Orders are solicited with reference to paras 3 to 6 above

(4) As at present advised I do not perhaps think that section 42 of the Court Fees Regn. Since in the Schedules no mention is made with regard to contested or an uncontested suits.

(5) (8) ~~Section~~ The Court Fees Regn seems to require amendment. The form of the amendment is the next point for consideration.

(6) (9) ~~It is~~ To amend the Schedules wherever the words "plaint" or "memorandum of appeal" occur by repeating the amendments in several places, since those words occur in several places in the Schedule.

(7) 10) It is therefore submitted that ~~the Schedule~~ section 3 may be amended. I have put up a draft of the amendment. The amendment is to add a proviso to section 3 of the Court Fees Regulation and to repeal section 17 A of the Civil Courts Regulation. The draft of the amendment is as follows:-

3049 22 20

(I). Provided that if such document is a plaint or memorandum of appeal filed before a Civil Court, the fee to be paid in respect of that document shall be as follows:-

(1) Half the amount indicated by either of the said schedules as the proper fee for such document at the time of the institution of such suit or memorandum of appeal and no further fee if such suit or appeal is disposed of without contest by agreement of parties; and

(2) the other half of such amount within a time to be fixed by the court, if the suit or memorandum of appeal is not so disposed of.

(II). Section 17 A of the Mysore Civil Courts Regulation, 1883, shall be repealed.

Secy L.D.

It is a desirable change recommended by L.D.C.

It may perhaps be expedient to consult the Chief Court & suggest a draft amendment to ~~amend~~ a Regulation in which, according to their opinion, it should find a place.

Chief Secy may / Member

Secy to Govt. Law Dept. may kindly see

Law Secy may kindly see

Govt. Advocate may kindly see

Secy to Govt. Law Dept. may kindly see

Secy to Govt. Law Dept. may kindly see

Secy to Govt. Law Dept.

Serial No.

77 Subd with reference to para 24 above

B/
19/4/27

23 Putup adaptn Bill

28/4

24 Subd with adaptn Bill

B/
29/5/27

24

Final Note by the First Member of Council.

22

Subject :—

Amendments to the Court Fees Regulation.

75) On the recommendation of the Laws' Delays' Committee to allow parties to pay institution fees on suits and memoranda of appeal in instalments, the Court Fees Regulation is proposed to be suitably amended, and Section 17 A of the Civil Courts Regulation to be repealed.

76 It has been found by experience that under Article 12 Schedule I of the Court Fees Regulation as it stands now, parties have in some cases evaded payment of a higher fee. In order to avoid this, it is proposed to amend the Article 12 of the Court Fees Regulation. A statement of the general principles of the amendment is proposed to be placed before the Representative Assembly.

77) Gracious approval of His Highness is solicited for the action proposed to be taken.

K. Ananday

First Member of Council.

Bangalore,
6th June 1927.

25

Submitted to His Highness. 23.

17/ *I submit herewith a Final Note by the* First *Member of Council on the subject of* Amendments to the Court Fees Regulation

for His Highness' gracious approval.

Mirza M. Ismail
Dewan.
8-6-27

8/6/27

b. 26

2·14

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject

Amendments to the Mysore Court Fees Regulation, 1900.

898

Order.

29

~~KRW~~

10/6/27

C.249/1M

The Palace, Mysore,
10th June 1927.

27

25

My dear Mirza,

1 Q Member Hindu Complt

I must be mistaken Sir Charles mysterious

JM 10/6

In returning herewith the file relating to the Bill to amend the Mysore Court Fees Regulation, 1900, may I invite your attention to the difference between the provisions of the Bill and the recommendations of the Taxation Enquiry Committee? What the Committee recommended was that court fees should be paid in two instalments, one at the time of institution and the second at the time of framing of issues, that being the definite point at which contest commences. The Bill provides for the second half to be paid within a time to be fixed by the Court, if the suit or memorandum of appeal is not disposed of without contest by agreement of the parties, and the Laws' Delays' Committee suggest that the tendency (which exists at present) of unduly delaying the payment of the second instalment of court fees may be checked by sufficient care being taken that the rule is not worked with undue laxity and that long adjournments are not granted for this purpose.

2) I think it fair to point out to you that we had evidence that the tendency of the Courts of British India was always towards undue laxity in such matters because, the presiding officers are members of the legal profession, and their life is apt to be made a burden to them if they do not fall in with the wishes of their fellow lawyers. It is therefore desirable, as much in their interests as in that of the revenue, to give them definite instructions under the law wherever possible, and not to give them a wide discretion, the exercise of which in the direction of promptitude will always be liable to be attended by unpleasantness.

3) I cannot find anything in the papers to indicate why the proposal of the Taxation Enquiry Committee was rejected in favour of

the much looser scheme, and I therefore venture to place this note before you before the Bill goes before the Assembly.

3. I need hardly say that, once the Bill has been introduced, it is likely to be much more difficult to tighten it up.

Yours sincerely,

G Godwin Austen

5396/20 b.24 9/147/27

General and Revenue Secretariat.

Amendments to the Mysore Court Fees Regulation, 1900.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

87

Circulated to the Members of Council for perusal of

*

His Highness' orders $\frac{\text{before}}{\text{after}}$ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure)

M. A. Rama Rau

Chief Secretary to Govt.

Through the Secretary to Government.

.....Department.

13075/20/6

FIRST MEMBER OF COUNCIL.

85) 20/6

7651/21/6

SECOND MEMBER OF COUNCIL.

86) 21.6.27

3654/21/6

THIRD MEMBER OF COUNCIL.

87) 21/6

NOTE—Contn. sheet.

Sec'y, Law Deptt. with Comps.

Mono WD 1190—GPB—500 9-1-23.

21/6

30

28

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Law Secretary or Asst Secy
or both of them may
kindly find these files
at 3.30 P.M today.
The Secy changes
made dictated.

Ale
12/6/27

Sd
12.6.27

Suits personally to me I
member. The proposal
to fix a definite time in
suits may be possible. But
in appeals, there is not the
stage of framing issues in suits.
Hence the draft. The members
ordered that the question may
be examined further. The
Re-Land Rev. Code. The Bill
was not finally shaped. It was

N. B.—Should routine notes be written on small slips the notes must be cipoed, or slips pasted on this form

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Still in the stage of discussion.
The members ordered that
the suggestions of Executives
may be examined.

12/6

N. B.—Should routine notes be written on small slips the notes must be pasted on this form.

Law Secty

31

30

1. Please send up the file re Comm Secs Amendments for us before W.H. & note why the Secretaries not enacted the terms by Governor?

2 Before principles are put before R.A. papers must be Circulated to Council. Is this always done in the past?

3 D.P.C. C.P.C. & L.R.C. for other L.C. Bills to be attended to. Except Court fees. Final drafts to be accepted by Executive

KK

Letters taken round to Headquarters for action 21/6

Lee 21/6/27

21.6.27

21/6/27

32

G. R. S. III—3]

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record]

94

Sir,
All the files relating to the Amendments of the Regulations - Court fees Regulation etc has been sent to C&S. for circulation on 20/6/17 as per diary of the Branch. The C&S. may be requested to put up the file.

3/16 - 5 files were returned by C&S -

25/6

N. B. Should routine notes be written on small slips, the notes must de copied, or slips pasted on this form.

WD 1880—GPB—1,50,000—2 5-21

Serial No.

96 The Court Fees Bill file is put up.

97 Kind reference is invited to paras 384 and 385 of the L.D Committees report. As stated in para 384, the present law in ₹ Mysore as laid down in section 17 A of the Civil Courts' Regulation is to refund half the fee ~~only~~ in cases decided not only without contest but also by agreement of parties.

98 Though in para 384 the Committee quote the observations of the Indian Taxation enquiry Committee, they do not explicitly recommend that in Mysore a departure should be made from the existing law so as to charge only half the fee in cases decided ex parte.

99 That the Committee's intention was to charge half the institution fee only in cases in which refunds are now made under section 17 A of the Civil Courts' Regulation is apparent from the fact that in para 388 no reference is made to appeals at all

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

34/32

General and Revenue Secretariat. | File No. | of 192

Serial No.

although ~~under~~ section 17 A of the Civil Courts Regulation ~~is~~ includes appeals also.

(c) Construing therefore that the intention of the Committee was to change half the institution fee only in cases covered by section 17 A of the Civil Courts Regulation, the draft bill (H : N) was prepared. The bill does not cover cases decided ex parte as ~~this~~ such cases ~~cannot be heard~~ though decided without contest are not disposed of by agreement of parties.

(d) Since ~~under the bill~~, no loss of revenue would ~~not~~ have resulted if the bill had become law, the Land Secretariat ~~was not~~ consulted.

(e) Subject to the reference to Member's order para 11 (H : W) (para 9 ! See 4 L.D) 18/26/6

(f) The Bill as framed does not cover Ex parte decrees & as such there is no loss of revenue. The position will be exactly the same as before except that instead of recovering the full amount & refunding half in cases decided without contest by appeal

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

5 196 for.

35

33

5 214

[App. F. III—2]

General and Revenue Secretariat. | File No. | of 192 .

Serial No.

of parties, the Court will levy half the institution fees in the first instance & levy the other half if Cases becomes contested.

104 Hence no loss of revenue.

13266/27/6

per Hon'ble

SD 27.6

SD 27.6

105 The Law Secy was not precise in this matter. The words that I have underlined in the SR of Bills & Reasons are liable to be misunderstood & were actually misunderstood by Mr Narasimha Rao. He desired to R/Members that Ex parte decrees were also included. Law Secy & I immediately have corrected the mistake. Even the file was not available for reference & Correcting it.

106 Please see that all files relating to Govt business are available in the Hall.

107 It shd be made very clear in the proposed amendments that Ex parte decrees are not included.

108 On this basis legislation may, I think, proceed as there is no loss of revenue.

109 Pl submit to Dewan.

(The papers had been circulated to members of Council)

DEWAN'S OFFICE.
Received on
28. JUN. 1927
Reg. No. 10139

NOTE—Contn. sheet.

Dewan.

20/6

30.6.27

WD 2293—GPB—10,000—4-5-27

5 217

SD 28.6.

28.6

Serial No.

111

From the extract of Orders made by Govt and herewith put up Flag A, it is clear that the proposals of Govt re The amendment of the Court Fees Regn was put to vote and carried 10 7 for & 4 3 against.

112 Among the files in which action was required to be taken to prepare them to the Legislative Council this file has however been excepted (Vide para 3 supra) Submd for orders.

Flag V

Draft 21.7.27 113 Reference is however invited to orders in paras 10 7 & 108, that the legislation should proceed. The alterations to be made in the Bill in pursuance of orders, vide para 107

Addl 29/7 114 Please put up extracts of the Proceedings of the R.R. on this Bill.

115 29/7

To the L.C. Office for Rules putting up the Extracts

Addl 29/7 116

30.7 in the A.A.

An extract of the Rules of discussion on the amendment of the Court Fees Regulation is put up: & This may be forwarded to the Collector for—

Flag K

30/7

30/7

Note—Contn. sheet.

Prot. Asst.

446

App. F. III—2]

31

35

General and Revenue Secretariat.

File No. of 192 .

Serial No.

Subd The draft

Please refer to the Dy. of the P.S to x.x. He refers to Income Taxation Enquiry Committee's Report - Please bring up with it

115 5/8

An enclosure

From the Report is hereunto put up & Subd as directed

5/8 5/8

NOTE—Contn. sheet.

WD 0324 -GPB—60,000--24-5-27

General and Revenue Secretariat. File No. of 192 36

Serial No. 119

Kind reference is invited to the D.O. letter of Sir Charles Todhunter dated 10th June 1927. - He points out that the Indian Taxation Enquiry -- Committee recommended that court fees should be paid in two instalments, one at the time of the institution and the second at the time of framing of issues, that being the definite point at which contest commences. The Bill was framed according to the recommendations of the Laws' Delays' ~~Commit~~ Committee who in para 385 stated that "if the suit passes on to the stage of contest, the plaintiff may be called upon to produce the balance of court fees within a fixed time and the suit proceeded - with further. The tendency of unduly delaying the payment of the subsequent instalment of court fees may be checked by sufficient care being taken that the rule is not worked with undue laxity or that long adjournment periods are not granted for this purpose." It is therefore clear that the object of the Laws Delays' Committee was that the court fees should be paid within a time fixed by the Court, that the undue delay in collecting the second instalment could be controlled by sufficien care being taken that the rule is not worked with laxity and that long adjournments are not granted for this purpose. Sir Charles Todhunter points - out that the tendency of the courts in British -- India was always towards undue laxity in such -- matters because the presiding officers are members

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

Serial No.

of the legal profession, and their life is apt to be made a burden to them if they do not fall in with the wishes of their fellow lawyers. He therefore suggests to give the courts definite instructions under the law and not to give them a wide discretion. It is therefore for consideration whether the suggestion of Sir Charles Todhunter may be adopted.

120 If it is adopted there will not be any difficulty with regard to suits instituted in original courts.—For there is a definite stage of issues being framed before the suit passes on to the stage of contest, and it may be stated that the second instalment of the court fees should be paid on or immediately after the settlement of issues as the Indian Taxation Committee recommend. With regard to appeals there is no such stage and in fact the Indian Taxation Committee do not seem to refer to appeal cases at all. It is therefore necessary to fix a particular time in appeal cases for the payment of a second instalment of the institution fees.—It is submitted that this time may be stated to be before the hearing of the appeal on its merits. On these matters the Chief Court may perhaps be consulted. After orders are passed on ~~this point~~ the Bill will be revised if necessary.

Law L. D) 10/8

NOTE—Contn. sheet

Serial No.

121) The recommendation of L.D. committee giving powers to the Courts to fix a date for payment of the other half of court fees cannot in practice easy to be adopted.

122 When does the suit pass to the stage of Contest as has to be defined either in the Regn.

123 Generally speaking the suit may be said to be contested when the defendant files his written statement repudiating the claim of the plaintiff.

124 In many cases the suit is compromised after the written statement is filed.

The present practice is to order a refund of half of the court fee often even after the W.S is filed repudiating the claim provided the suit is compromised before the issues are framed.

125 Hence the settlement of issues is taken as the starting point for a suit passing on to the stage of Contest.

It is better to fix this point for the purpose of Courts to insist upon the balance to be paid at the time of framing issues.

1356/13/8

126 In small cause suits & appeals it is better to adopt the practice of County Courts & to insist upon the payment at the trial or hearing of S.C. suits & appeals.

The Chief Court may however be consulted

NOTE—Contn. sheet

WD-0324—GPB—60,000—24-5-27

Serial No.

(126) Chief Court may be consulted as proposed

16e 15/8/27

8d 15/8

15/8

16/8

(128) Draft Lrbd

Draft Lrbd

16/8

16/8

(129) Redraft type as returned

16/8

Report

Mr Peiris 16/8

(130) Typed draft Lrbd for consideration

17/8

17/8

Secy d-D)

17/8

D

(131) app 8d 18/8

(132) Hon Chief Court

Rep 16e6 D 22.8.27

18/8

Request to obtain and furnish Govt with the opinion and suggestions of the Judges & the Chief Court in the matter

Secy

NOTE—Contn. sheet.

General and Revenue Secretariat. | File No. of 192

Serial No.

No R.O.C 233/27-28 dated 2.9.27

From

The Registrar, Chief Court.

With reference to this office letter dated 19.8.27 re payment of institution fees in instalments where Trial Judges are of opinion that the second instalment may be paid at the time of framing issues in Civil suits, in appeals when they are heard, and in Small Causes before evidence is let in.

133 Kind refer is invited to Cl 2 of the draft Bill. If the suggestion of the Chief Court be approved, for the words "within a time to be fixed by the Court" in para 2 of the proviso, the following words may be substituted "at the time the issues are framed in Original Suits, in appeals before they are heard and in Small Causes, before evidence is let in"

Subd with refce to paras 126 and 127 supra

Dtd 9.9.27 Rcd 9/9

1314 Rules for orders if the Bill may be redrafted as Chief Court's opinion

1/9

(1 member)

(55) For — but English is bad — Same Sequence

NOTE—Contn. sheet to be used here

WD 0324—GPB—60,000—24-5-27

1/9 Left 1/9

General and Revenue Secretariat. | File No. | of 192

Serial No.

186) Alternative amendments are suggested in respect of sub cl 2 of the Proviso - clause 2 of the Bill

Done 13/9 Rec 13/9

137) Please type the draft

28/9

Secy 28/9

138) Typed draft submitted

Done 1/10/27 Rec 1/10

Draft Bill to amend the Court Fees Regulation is submitted for consideration -

See 2-D)

11/10

To be put up at Simla

From 1:34-

Re submitted

Done 11/10 Rec 11/10

Please bring it

submitted 12/10.

13/10

3236 21/10

141) Shall alternative Draft The draft may perhaps be appd

Submitted 21.10

21-10

141 Secy 22/10

submitted 22/10

22/10

Secy 22/10

142

The Bill will have to receive the approval of the Council before

NOTE—Contn. sheet

1313 44

App. E. III—21

General and Revenue Secretariat. | File No. of 192 . 42

Serial No.

DEWAN'S OFFICE
Received on
29. OCT. 1927
Reg. No. 2865

'G'

Further action action is taken for introducing the same in the Legislative Council.

143 Copy of Memo dated 26.2.26 re Legislation is herewith put up & Rebd. From the Proceedings of the Minister (dated 6th June 1927) it is seen that the Statement of General Principles was approved to be placed before the E.C. and Legislative Council that the Bill was not considered in the Council. Rebd for orders.

Done 25/10/27 25/10

144 The Bill framed is perhaps to be approved in Council

Leg L.D) 28/10

145 May be disposed of by entitled Dewan.

28/10

28/10

29-10-27

1st member

2nd member

&

3rd member

31/10/27

31/10

31/10

NOTE—Contra sheet

CHIEF SECRETARY, Cochin Govt. 1927

WD 0324—GPB—60,000—24-5-27

45

App. F. III—2]

General and Revenue Secretariat. | File No. C186 of 192 . 43

Serial No. 146

D. S. N. Sub

DEWAN'S OFFICE
Received on
8. NOV. 1927
Reg. No. 3686.

9/11

8/11.

14) Yno
8-11-27

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

Final Note by the First Member of Council.

Subject :—

Bill to amend the Mysore Court Fees Regulation.

148 On 10th June 1927 His Highness was graciously pleased to approve of the action proposed to be taken in regard to the placing of the principle of the Bill to amend the Court Fees Regulation before the Representative Assembly. The Bill, as originally framed in accordance with the recommendations of the Laws Delays Committee, provided for the payment of the second instalment of the Court fees within a time to be fixed by the Court. In returning the file with the orders of His Highness, Sir Charles Todhunter suggested that instead of leaving it to the discretion of the courts to fix the time within which the second instalment is to be paid, it might be desirable to give the Courts definite instructions under the law, as recommended by the Indian Taxation Enquiry Committee.

149 2. The suggestion was examined and the Chief Court was consulted. The Judges of the Chief Court have no objection for the second instalment of court fee being paid at the time the issues are framed in original suits, in appeals before they are heard, and in small causes before evidence is let in. The Bill has accordingly been revised and it is proposed to introduce it into the Legislative Council, the general principles of the Bill having been approved by the Representative Assembly at its Session in June 1927.

150 3. The Bill, as revised, has been approved of by the Dewan and the other Members of Council.

Page 42 Office Notes & L

157

49

4. I solicit the gracious approval of His Highness to the measure.

Bangalore,
8th November 1927.

K. Chandy
MEMBER OF COUNCIL.

68

Submitted to His Highness.

15

I submit herewith a Final Note by the FIRST *Member of Council on the subject of* Bill to amend the Mysore Court Fees Regulation,

for His Highness' gracious approval.

Mirza M. Ismail

Dewan.

8-11-27

45

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Bill to amend the Mysore Court Fees Regulation.

285

153 *Order.*

KRM

X 10/11/27

154

Chief Secy
11/11

9/11/11

30

R. S. III-2]

General and Revenue Secretariat. | File No. C136 | of 192.

Serial No.

Bill to Amend the Mysore Court Fee Regulation.

155

Circulated to the Members of Council for perusal of His Highness' orders before / after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

*

M. S. Rao

Chief Secretary to Govt.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at headquarters and then sent to the Secretariat concerned for the issue of orders.

Through the Secretary to Government,
.....Law.....Department.

156

FIRST MEMBER OF COUNCIL. (Seen)

157

SECOND MEMBER OF COUNCIL. Mudd 20/11/27

2743/19.11

158

THIRD MEMBER OF COUNCIL. 18/11

4525/18/11

NOTE—Contn. sheet.

Mono WD 1335—GPB—500—16-1 23.

General and Revenue Secretariat. | File No. | of 192 | C136

Serial No.

159

Bill may be published under Rule 8. of the Rules of business.
Permission to introduce has to be obtained from the Dewan.
Forms are sent for signature

Sec (L-D)
14/11

Dewan.
14/11

3-8-7-5
14/11/11

160 Sec 14/11/11
14.11
14-11

161

Typed copies of Bill are herewith sent up for being sent to P.C. Office after signature.

Secy
14/11 Asst 14/11
14/11

162

L.C. Office) Typed copies taken & the file returned
15/11

Secy 15/11

163

The file may be sent to Cl. section for circulation of Hon'ble Member's orders.

Secy 17/11 Asst 17/11 164 (Council Section)
17/11

Returned to Secretariat after circulation to members of Council for perusal of the orders.

NOTE—Contn. sheet.

Secy 21/11/11 Asst 21/11/11

WD 0324—GPB—60,000—24-5-27

General and Revenue Secretariat. | File No. of 192

Residency Corr^d as old 5 file
Mr. K. Narasimha Rao & letter
for S.C.

Serial No.

165

At the meeting of the Legislative Council held on 5th Dec 1927 the Bill was read in Council and referred to a Select Committee Consisting of the following members

1) The Hon'ble Member of Council
2) Mr. D. Nagappa
3) " K. Shankaranarayana Rao
4) " H. Dasappa
5) " D. S. Iraliappa
6) " MD Abbas Khan
7) " A. Krishna Rao
8) " T. Srinivasa Chari
9) " B. K. Gandachar

The meeting was posted for 12th January 1928 and on that date the Bill was discussed and members were of opinion that there was no sufficient data for discussing the Bill

166

It was also decided to obtain additional information in regard to suits disposed of and on the following points:—

NOTE—Contn. sheet.

V707

General and Revenue Secretariat. | File No. - of 192 .

Serial No.

1 The value of Stamp per realised in Exparte Cases

2 The amount that is refunded under S. 17. A. of the Civil Courts Regulation

3. Members were also of opinion that S. 17 A has to be repealed by another Section in the same Act

167 Mr. H. C Dasappa wanted information on the following points

Among suits disposed without Contest

i How many are exparte decrees;

ii How many of them were revived;

iii How many of them are Small Cause Cases;

iv What is the total value of the Court fees derived through Exparte decrees in

(a) original suits

(b) in Small Cause suits

(c) in Mun. suits.

168 Read with draft Calling for information from 169 In the course of discussion at the Select Committee meeting Messrs A. Krishna Rao, T. Srinivasachar and H. C. Dasappa were of expressed

18.1.28. MM 18/1/28

NOTE—Contn. sheet.

2707

64

General and Revenue Secretariat. | File No. of 192 .

Serial No.

DEWAN'S OFFICE
Received on
26. JAN. 1928
Regd. No. 4614

the opinion that in cases of suits decreed experts only half of the Court fees should be levied and if Govt are not in favour of such a view the Bill may be dropped.

Rahim Bahadur and Abbas Khan & Mr D.S. Mallappa were in favour of the Bill.

So far as Govt is concerned, there it is not the idea to charge only half the institution fee for suits decreed experts, as Govt cannot afford to lose the large amount which the proposal of the legal members would involve. When this idea was put forward Mr M.E. Dasappa suggested that information as noted at A might be obtained to show the amount that the Govt would lose. This was agreed to. Draft to the Chief Court Subd

Legal Dept

Law Secy may please speak to me today after mature

Law Secy Pleader

Please type the draft

NOTE—Contn. sheet.

General and Revenue Secretariat. File No. of 192 . C 256

Serial No.

DEWAN'S OFFICE
Received on
4 FEB. 1928
Reg No. C 830

174
Discussed with the member.
It seems desirable to further consider the principles of the Bill by the Council
1st member. 8/2

175 maybe informally discussed in Council if Dewan approves.
Hon 3/2
Dewan. 8/2 3/2

176) Yes. on Monday next
FM
3-2-28

Receive in office on 6/2/28

144) Chief Sec^y with compl^ts
Discussed in council.
148
8/2 6/2/28

The Bill may be procedded with in the Select Committee.
The Council is of opinion that the Ex parte decrees are not to be included within the operation of the Bill, ie the law as it is at present is not intended to be changed
What the Govt of India have done in respect of Joshua's Committee's recommendation in this matter may be ascertained with a view to consider the question of proceeding with the Bill or not—
Jt Secy-Member 8/2 6/2/28. 7/2

149)
Please see these refes
Letter & note
we decide to drop the Bill & allow it to lapse
NOTE—Contn. sheet.

Chief Sec^y with compl^ts to get the literature
8/2 8/2

WD 0321—1PB 150,000—24-5-27

J.C.T.

Please read
a formal requisi-
tion for the
books required.
A req^n slip is sent to the
sent for the books
9.2.98 8.84
9/2
Supt, Print Bk.
with compliments

The requisition has been
read. But copy is
not yet furnished.
The matter will be
be pursued as soon as
the books become available
Done

2707 App: F. III—2]

General and Revenue Secretariat. | File No of 192

Serial No. 80

This may be sent to the Library for kindly putting up the Taxation Commission Report & orders on the same

Done 9/2 To the Library for kind compliance

9/2

1982 No available literature in the Library has been examined. No orders appear to have been passed.

1983 The opinion of the Legal adviser to the Commission on this part of the recommendation is contained at pages 173 & 174 of the Report vol II. Placed in the file.

1984 It is not clear if it is the intention to address the Residency in the matter, in which case the file may be sent to the Resident Chief Secy, as noted on the last page

Done 14/2/28 (Chief Secy)

14/2

14/2

NOTE—Contn. sheet

CHIEF SECRETARY. 15 FEB. 1928

WD-0524—GPB—60,000—24-5-27

2701/P 57

C253

General and Revenue Secretariat. | File No. | of 192 .

DEWAN'S OFFICE
Received on
18. FEB. 1928
Reg. No. 5166

Serial No.

185

The decision of the Govt. of India was reported in the Karrar Mail, from which an extract is placed below

MM
16/2

Secy
Home Dept

16/2

1st Assn.

6737/17/2

8/
17.2
2

186

In view of the decision of the Govt of India, the question may be considered in Emergency if Dewan approves.

DE
17/2

Chief Secy
with Comps.

8/
17.2
2

Dewan

MM
18/2

187

JM
18-2-28

CHIEF SECRETARY
18 FEB. 1928

(For Disposal at a Meeting)

No. C. 270
of 1927-28

GENERAL AND REVENUE SECRETARIAT

*Council Matter.

SUBJECT

(clause ii of the schedule)

Bill to amend the Mysore Court Fees Regulation.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

Chief Secretary to Government.

24th February 1928.

First Member of Council.

Second Member of Council.

Third Member of Council.

D2

55

Subject:-

Bill to amend the Mysore Court Fees Regulation.

N

A bill to amend the Mysore Court Fees Regulation so as —

(i) to allow parties to pay institution fees on suits and memoranda of appeal in two instalments, as recommended by the Laws' Delays Committee; and

(ii) to guard against the evasion of payment of a higher fee (by splitting up claims) in certain cases,

was placed before the Legislative Council in December 1927 (after the general principles of the measure were approved by the Representative Assembly in June 1927) which referred it to a Select Committee for consideration.

Paras 169 & 170 of Rules

2. In the Select Committee some of the members expressed the view that only half of the Court Fees should be levied in the case of suits decreed exparte and that if Government would not agree to this, the bill might be dropped. It was proposed to collect certain statistics to get an idea as to the loss to Government involved by the suggestion. The matter was, however, discussed in Council on the 6th February 1928 when it was resolved that exparte decrees are not to be included within the operation of the Bill, and that the action taken by the Government of

Para 178 of Rules

60

India on the recommendations of the - - Indian Taxation Enquiry Committee might be ascertained with a view to consider the question of proceeding with the bill or not.

M

3. From a cutting from the Madras Mail dated 27th January 1928, the Government of India seems to be averse to the proposal of allowing payment of Court Fees - - in two instalments in view of certain - - counterbalancing disadvantages. The - - question of proceeding with the bill is - one for consideration in Council now. The First Member ~~is disinclined to the view~~ suggests that it would ~~be best to allow it to - -~~ lapse.

N.B. There is also another point in the bill re: amendment of Section 12 so as to guard against evation of payment of higher fees. The further action in regard to - this is also perhaps for orders.

27072 5

61 C270

Subject. -

Bill to amend the Mysore Court Fees Regulation.

OPINION OF THE COUNCIL.

192 Note

Need not be proceeded with at present

5/3/28

8/8 Law Secy with Comptr
7.3.

5/3.
7.3

Legis
7p

2707 62

App. F. III–2]

General and Revenue Secretariat. | File No. | of 192

Serial No.

193 Under rule 9 of the Rules of business of the L.C. the bill may be removed from the list of business after keeping the file without any action for two years, or under S.O. 42 with the permission of the L.C. the bill may be withdrawn. Sird

9/3/28. If the latter course is to be adopted a motion will have to be made before the Legislative Council

Secy 9/3

withdrawn

Bill withdrawn.

Secy). 9/3

194 No motion with regard to this Bill will be made at the next meeting of the L.C. The question of withdrawing it may perhaps be considered later.

9/3

Secy)

195 One of two courses may be adopted, either no motion be made for a space of 2 years under Rule 9 or a motion for withdrawal of the Bill with the permission of the President be made under S.O. 42

Secy

DEWAN'S OFFICE
Received on
14 MAR. 1928
Reg. No. 5861

7453
12/3

orders
to be brought up in person by the Conservator

10/3

196) The former Conservator of Forests

Secy

Letter submitted 13/3/28

13/3

197) Dewan.

15/3

Secy 16/3 Secy 15/3 Secy 16/3

Secy 10/3

NOTE—Contn. sheet

WD.0324—GPB—60,000—24-5-27

App. F. III—2

General and Revenue Secretariat

File No. (63) of 192

Serial No. A

198)

This may be taken in Sec B in Dec 1929 & then finally

the orders the file may be sent to Cabinet Secretariat for kind up the Report Vol II Page xx para 53. as the matter has become come back.

Dec 1991 A - This is for orders

This work has been rationalised in 1643 28 Jan 1643

This file helps drawing up the new Organisation

Income Tax

VII (Re Judicial Taxation Inquiry) Comm. is herewith put up.

10/3/28

Secy 17/3

Sec B 12/3 11th Dec 1929

detached from form file 67-29 in which this had been noted.

Secy 15/4

Noted with respect to paras 195-200. Two years are now over & the C.C has been disbanded. The case has therefore lapsed & may be recorded

Secy 15/4 Asst 15/4.

NOTE—Contn. sheet

WD 0324—GPB—60,000—24-5-27

16/4

Sec 16/4

G.R.S. III—31

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

for practice in Br India
re Court fees in
Court Expanle Cases

Send with a draft to the Chief Court

24.1.28

To the Regr Chief Court
NOP. 4063 D. 24-1-28

Request to obtain the
practice obtaining in
Br India ~~Madras~~ in the matter of
refund of half the institution
fees in suits and appeals.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

From

The Reg: Hcrip. Court.

Letter no D. 203/163 dt. 21/2/28

Forward copies of letters received from the Registrars of High Courts of Madras and of Bombay in the matter of the refund of half the institution fees in suits and appeals in which decrees are passed

4) Listed for perusal. This was required in connection with the amendment of court fees Regulation to provide for payment of court fees in instalments. This may be dealt by the Legislation Section

dt 24/2/28 5) Let me see the relevant file. Cz 25/2

6) Legislation Section for kindly putting up the file

25/2/28 7) The file is in Council

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Dr. 25/2/28 8) I think it has been put up Cz 28/2

Legislation

1793

G.R.S. III—31

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

The file was just now received from the Committee with orders that "the case need not be proceeded with at present" and that it should wait before 6 years from 8 above.

Note
9/3/28.

This will be placed in the connected file after its return from the Secy

Secy
10/3

Secy
10/3

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form

No. 203-26-1 4

No.P. 1046-07 dt 19th Aug. 27

To

The Registrar, Chief Court.

Sir,

I am directed to invite reference to paras 384 and 385 of the report of the Laws' Delays' Committee, re the payment of institution fees in instalments and to state that the Committee recommend that the plaintiff may be called upon to produce the balance of court fees within a fixed time and that sufficient care should be taken that the rule is not worked with undue laxity or that long adjournments are not granted for this purpose. It is presumed from this that the time for the payment of the 2nd instalment is to be fixed by the court.

A view is expressed by some that instead of allowing discretion to courts and giving room for any laxity, it might be preferable to follow the recommendation of the Indian Taxation Enquiry Committee and fix a definite time for the payment of the instalments. If this is done, there will be no difficulty in regard to original suits, as the framing of issues marks a definite stage for the commencement of the contest and this may be the time for the recovery of the 2nd instalment. In regard to appeals and -- Small Cause suits, however, there is no such stage and some time will have to be fixed for payment of the 2nd instalment,

5

which may perhaps be before the hearing of the appeal or the commencement of the trial of the suit, as the case may be. I am to request you to kindly obtain and furnish Government with the opinion and suggestions of the Judges ~~of the Judges~~ of the H Chief Court in the matter.

I have etc.,

17/6

Secy. to Govt. Law Dept.,

TD

17/6

1363/P&S 27

Telgm:
"JUSTICE"

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore 2nd September *192* 7

R. O. C. No. 233
~~Dis.~~ 27-8

No 203-26-2

From

A. Sreenivasaragavachari, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

To

B. NAGAPPA, Esq., Bar-at-law.,
Secretary to the Government of His Highness
the Maharaja of Mysore, Law Department,
BANGALORE.

Sir,

I am directed to acknowledge the receipt of your letter No. P. 1046/Legis. dated the 19th August 1927, re: the payment of institution fees in instalments and requesting the opinion and suggestions of the Judges of the Chief Court whether it may not be preferable to follow the recommendation of the Indian Taxation Enquiry Committee and fix a definite time for the payment of the instalments.

In reply, I am to state that the Judges have no objection for the second instalment of court fee being paid at the time the issues are framed in Original Suits, in appeals before they are heard and in Small Causes, before evidence is let in.

I have the honour to be,
Sir,
Your most obedient servant.

M Viswasuryan
For REGISTRAR.

KVN/-

P.
~~604~~
Pol ~~592~~/1 Page
Pol. 592

Pol. No 203-26
Dy. 22nd Nov
1927

MAJOR K.A.G.EVANS GORDON,
Secretary to the Hon'ble the Resident in Mysore.

I am directed to forward herewith a copy of a Bill further to amend the Mysore Court Fees Regulation and to state that it will be introduced into the legislative Council at its next session on the 5th December 1927.

I have the honor to be,

Sir,

Your most obedient servant,

Draft
for GENERAL SECRETARY TO GOVERNMENT

B.K.M.

Note—Contn. Sheet

WD 02328--GPB--10,000--22-4-30

2707/30 14850 C.B. 2225

All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

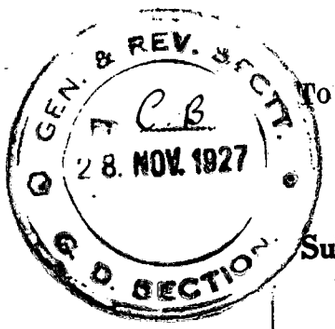
No. 11946 ENCLOS 607-1900 Dated Bangalore, 28 Nov. 1927.

pol. 679/8

FROM Major K.A.G. Evans Gordon,

SECRETARY TO THE RESIDENT IN MYSORE.

Jn 203-26-4



To The General Secretary to the Government of His Highness the Maharaja of Mysore.

Subject :—

Bill to amend the Mysore Courts Fees Regulation.

SIR,

$116 d 9/11 Copy be sent to the Protectorate Branch — J. 29/11

I am directed to refer to your letter No. Pol. 592, dated the 22nd November 1927, and to say that there is no objection to the introduction of the Bill as proposed. The sanction of the Government of India to its being passed into Law is necessary, and may be applied for in due course.

29/11

I have the honour to be,
Sir,
Your most obedient servant,

R8 28/11 Law 29/11

for SECRETARY TO THE RESIDENT.

SNR

Note—Contn. Sheet

WD 02328—GPB—10,000—22.4.30.

Draft

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. 4063 *Dated, Bangalore,* 24/1/1928

From

B. NAGAPPA, Esq., Bar-at-Law.
Secretary to the Government of His Highness the Maharaja of Mysore
Local and Legislative Departments

To

A.Srinivasaraghavachari Esq., B.A.,B.L.,
Registrar, Chief Court.

Sir,

I am directed to request you to kindly intimate the procedure obtaining in British India and especially in Madras in the matter of the refund of half the institution fees in ~~cases~~ in which ~~ex parte~~ decrees are passed. ~~Vide Section 13 of the Madras Civil Courts Act, VII of 1892).~~

Withdrawn
Contested

Suits & appeals

I have the honor to be,
Sir,
Your most obedient servant,

For Secretary to Government,
Law Department.

KNN

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To

The Registrar,
Chief Court of Mysore.

Sir,

I am directed to request you to kindly intimate the procedure obtaining in British India and especially in Madras in the matter of refund of half the ~~court-fees in ex-parte cases~~ (vide: section 13 of the Madras Civil Courts Act, VII of 1892).

in which exparte decrees are passed

I have etc.,

28/27/1

For Secy. to Govt.
Law Deptt.

22/1

(11 4179 P827

Telgm:
"JUSTICE".

CHIEF COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore 21st February 1928

R. O. C. No. 163
Dis. 27-8

Exc Tur. No 203-26-6

From

T. SINGARAVELU MUDALIAR,
~~A. Sreenivasaragavachari~~, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

To

B. NAGAPPA, Esq., Bar-at-Law.,
Secretary to the Government of
His Highness the Maharaja of Mysore,
Law Department, Bangalore.

Sir,

I am directed to acknowledge the receipt of your letter No. P. 4063/Cts. dated the 24th January 1928 requesting to be informed of the procedure obtaining in British India and especially in Madras in the matter of the refund of half the institution fees in suits and appeals in which decrees are passed.

In reply I am to forward herewith copies of the marginally noted letters received on the subject from the Registrar, High Court of Judicature, Madras and the Registrar, High Court, Appellate Side, Bombay.

From Madras:- R.O.C.No. 400.B-4/28 dated the 9th February 1928
From Bombay:- No. 1163 dated 6th February 1928.

I have the honour to be,

Sir,
Your most obedient servant,

Registrar.

VSM.

12

Letter No. R.O.C.400. B-4/28, dated the 9th February 1928, from the Registrar, High Court of Judicature, Madras to the Registrar, Chief Court of Mysore, Bangalore.

Court fees - Refund of - when the parties come to a compromise before the recording of the evidence Refce: Your letter ~~No~~. R.O.C.No.908/27-28 dated the 27th January 1928.

I am to state that Section 73 of the Presidency Small Cause Courts Act (Act XV of 1882) and Section 13 of the Madras City Civil Courts Act (Act VII of 1892) provide for the refund of half the amount of Court fees paid to the parties if an agreement is arrived at by them before the hearing of the case or recording of evidence. There is, however, no such provision in the court Fees Act (Act VII of 1870); and the practice does not obtain in the High Court or in the Mufassal Courts.

"C O P Y"

Registrar.

VSM.

13

Letter No. 1163, dated 6th February 1928, from the Registrar, High Court, Appellate Side, Bombay, to the Registrar, Chief Court of Mysore, Bangalore.

With reference to your letter No. R.O.C. 908/27-28 dated 27th January 1928, I have the honour to inform you that in this Presidency there is no such provision as is referred to in your letter in respect of the refund of Court fee paid on a plaint or memorandum of appeal, either in the Court Fees Act or in the High Court Rules. A refund is allowed only under Sections 13, 14, and 15 of the Court Fees Act and under Rule 74, III and VI of the Bombay High Court, Appellate Side, Rules, 1920.

-

"C O P Y".

Registrar.

ad

VSM.

ಫಸ್ಟ್‌ಗ್ರೇಡ್ ಪ್ಲೀಡರ್
ಬಿ. ನರಸಿಂಗರಾಯುರು.

Bhamanjapuram
Mysore 264
(14 ತಾ|| 25. 11. 192) P 8
D.S.39

OFFICE
Mr. P. S. R.
28. NOV 1927
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL

The Secretary,
Legislative Council,
Bangalore

Ref/11 L.C. Office

Sir,

I have gone thro' the Bill relating to the amendment of sec. 3 of the Court Fees Regulation, by adding a proviso enabling the Deft or appellant to pay only half the institution fee at the time of the institution of suit or appeal. A reference is also made in the statement of object & reasons, to the Report of the 'Laws Delays' Committee & the Indian Taxation Enquiry Committee.

The recommendation of Laws Delays Committee paragraph 385 is, that the suits & not appeals may be allowed, the institution only with ½ the scheduled fee till they reach the stage of contest, when deft should be called upon & make good the balance of the fee. Paragraph 338, of the Taxation Enquiry Committee report, makes a reference to the system in vogue in the County Courts of England, which, I understand are the Courts exercising original jurisdiction.

The proposed amendment of the Court Fees Regulation goes farther than the recommendation of the Laws Delays Committee, in respect of appeals & restricts the scope of its operation to a very limited extent in the Original Court.

In allowing appeals to be filed on ½ the institution fee, there will be an undoubted inconvenience both to the Court & the parties & an unnecessary delay in the disposal of appeals awaiting the payment of the other ½ the fee. The appeals have become already too many & the success in appeals will not be more than 10 & 15%. It is within the experience, that however bad a case may be for an appeal, it is always the craving of the unsuccessful party to try a chance in appeal. The cheaper the Court fee in filing an appeal, the greater will be the temptation to file appeals irrespective of the result. Besides when an appeal is filed no respondent would readily concede & allow the judgment of the lower Court to be reversed without contest & perhaps in very rare & exceptional cases parties may compromise in the appellate Court & in such cases under Sec. 17-A of the Court Fees Regulation, the appellant may be allowed a refund of ½ the institution fee paid on the memorandum of appeal. I therefore respectfully suggest that the concession proposed to be extended to appeals is not only not necessary but also inexpedient.

The case is quite different in suits instituted in the original Court. In the first Court in more than half the no: of suits the cases will be decided either ex parte or on admission or compromise. It stands to reason

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ಬಿ. ನರಸಿಂಗರಾಯರು.

~~ಸ್ಮರಣಪತ್ರ~~
ತಾ||.....192

& permit suits being allowed & be instituted on ½ the scheduled fee.

The proposed amendment containing the words "without contest by agreement of parties", does not go far & materialize the object in view of taxing a litigant only in proportion & the labor bestowed in the disposal of cases. In Cases decided ex parte, there would be no contest nor the cases decided on admission of the deft without coming & any direct agreement with the deft. The relief now proposed by the amendment would apply only & cases in which the parties come & an agreement & report such agreement & to court either orally or in writing. Such cases are few & far between. The relief now proposed does not benefit even 5% of litigants. The recommendation of the Laws delays Committee is plain & applies & all cases decided without Contest either ex parte or on admission or compromise. The present amendment does not give any relief in cases which are decided ex parte, as in most of the cases the deft does not consider it necessary & appear in Court by incurring travelling expenses, knowing full well the truth of the pltff's claim. If in the cases decided ex parte, the deft chooses & get the ex parte decree set aside & Contest the suit, then the pltff maybe called upon & pay the balance

Counsel before issuance of Writ. Therefore
effect that the words "by agreement of parties" may
not be dropped if it is the intention of the Court to grant
substantial relief to the defendant in such cases despite
settlement out of Court.

I therefore request that you will be pleased to
consider the suggestions hereinbefore above placed
this letter for consideration of the Hon'ble Member in charge
of the Bill.

I have the honour to be
Sir
Your most obedient servant
Thomas Morgan
Member R.I.A

Madras Mail
27th Jan: 1928.

9

TAXATION INQUIRY

COURT FEES ACT

GOVERNMENT DECISION

MATTER TO DROP

(From our Special Correspondent)

DELHI, Jan. 25.

One of the principal recommendations of the Indian Taxation Inquiry Committee was that there should be a uniform scale of court fees throughout British India. This it was proposed should be secured by the amendment of the Court Fees Act 1870 and accordingly the Government of India had been sounding local Governments on the subject,—but the opinions received were all adverse to the proposal and so the Government of India have now decided not to proceed with it. The result of this decision is that the Government will not pursue the other proposal of the Committee for the appointment of an expert Committee to revise the Court Fees Act, 1870, and schedules thereto.

OTHER PROPOSALS

The other recommendations, which thus remain for consideration, are: (1) that effect should be given to the principle of measuring Court fees by the cost of the service rendered, to the extent of taking the fee in two instalments, the first being payable at the institution of the suit, and the second on or immediately after the settlement of issues; (2) that section 7 of the Act should be recast thoroughly and a schedule prepared on the lines of the Indian Limitation Act, 1908 of suits and appeals which commonly arise in civil courts, with a method of valuation prescribed for each; (3) that provision should be made for the recovery of deficient fees in decided suits; (4) that fees in the cases mentioned in paragraph 343 of the report are inadequate; (5) that fees payable on applications to revenue and other officers should be examined and abolished, except possibly in the case of those on applications which involve inquiries of a judicial nature and (6) that election petitions to the local and central Legislatures, as well as to various local bodies, should be subjected to a fee which should bear relation to the cost of the service rendered.

MEANING EXPLAINED

The underlying idea in the first recommendation is to encourage a compromise in suits and consent decrees. It is doubtful whether mere delay in paying the second half of the fee will lead to either of these results. The proposal may, on the other hand, encourage the institution of suits and also have the effect of prolonging litigation in contested cases. It is doubtful whether a slight approximation to the ideal fairness which the Committee propose to effect, will counterbalance these grave disadvantages. As regards the second, in so far as this proposes the amendment of section 7 of the Act, there appears to be some force in the criticisms of the Committee. The method of valuation of land prescribed in paragraph (5) is considered to be out of date, as the value of land has undoubtedly risen considerably since the Act of 1870 was passed. It is also generally admitted that the provisions of paragraph (9) relating to suits on mortgage by conditional sale, are unsuitable and give an unfair advantage to this form of mortgage over the simple mortgage.

The suggestion for the preparation of a schedule on the lines of the Indian Limitation Act has been subjected to some criticism. It is feared that a heavy flood of complex case law, similar to that on the schedule to the Indian Limitation Act, may follow and it is urged that the retention of section 7 with suitable amendments is the wisest course to follow.

Regarding the fourth recommendation the local Government's attention has been drawn to the remarks of the Committee, in para. 343 of the report.

Regarding the fifth recommendation, there seems to be no sufficient reason why applications to revenue and other non-judicial officers, all of which involve a certain expenditure of public time and labour, should be exempt from fees.

As regards recommendation No. 6, the Government of India are in agreement with the Committee, that election petitions should be subject to court fees, but they think that in the case of petitions under the electoral rules for the Indian and local Legislatures the necessary provision should be embodied in those rules, and not in the schedule to the Court Fees Act.

17

Bill furtherto amend the Mysore Court Fees Regulation, 1900.

====

Whereas it is expedient further to amend the Mysore Court Fees Regulation, 1900, it is hereby enacted as follows:-

1. This Regulation may be called the Mysore Court Fees (Amendment) Regulation, 192

Proviso to section 3 of Court Fees Regulation, 1900.

2. In Section 3 of the Mysore Court Fees Regulation, 1900, the following proviso shall be added:-

"Provided that if such document is a plaint or memorandum of appeal filed before a civil court, the fee to be paid in respect of that document shall be as follows:-

(1) Half the amount indicated in either of the said schedules as the proper fee for such document at the time of the institution of such suit or memorandum of appeal and no further fee if such suit or appeal is disposed of without contest by agreement of parties; and

(2) the other half of such amount within a time to be fixed by the court, if the suit or memorandum of appeal is not so disposed of.

3. In Schedule IV of the said Regulation, add the following

Year	No.	Short title or subject	Extent of Repeal.
1883	I	The Mysore Civil Courts Regulation.	Section 17 A

4. In Article 12 of Schedule 1 of the Mysore Court Fees Regulation,1960, the following proviso shall be added to paragraph 1 in the third column of the schedule, viz:-

" Provided that when the amount or value of any debt or security to which the certificate is extended together with the amount or value of the debt or security to which the original certificate was granted exceeds Rs.5000/- the duty chargeable on the extended certificate will be such as to make the total fee on both the certificates equivalent to three per centum on the aggregate value of the debts or securities."

STATEMENT OF OBJECTS AND REASONS.

~~Clause 2 of the Bill~~ - In paras 384 and 385 of the report, the Laws' Delays' Committee point out that the present practice is for the whole of the court fees -- being paid at the time of the institution of the suit or appeal and if the suit or appeal is disposed of without contest by agreement of the parties, the plaintiff or appellant is entitled to a refund of half the amount of fees paid on the plaint or memorandum of appeal under section 17 A of the Mysore Civil Courts Regulation. Having regard to representations made in the Representative Assembly for the payment of court fees in instalments and to the -- observations of the Indian Taxation Enquiry Committee, the Committee recommend that the plaintiff should be called upon to pay at the time of the institution of the suit only half the court fees payable under the Court Fees Regulation and if the suit passes on to the stage of contest, the plaintiff may be called upon to produce the balance of court fees within a fixed time and the suit proceeded with further.

~~The Clause~~ 2 of the Bill gives effect to the recommendations.

Clause 4 of the Bill.- Under Article 12, Schedule I of the Court Fees Regulation, when the value of a debt or security

for

for which succession certificate is required exceeds Rs.5000/- it is possible by splitting up the claim, to evade payment of a higher fee. In order to avoid this, it is proposed to amend Article 12 as in the draft bill.

27/5

446
P 927.

List of promises made by the Government at the Budget Session of the Representative Assembly

19th June 1927.

Contents	Promise.
47. Amendment of the Mysore Court Fees Regulation.	The proposal was put to vote and carried, 107 for and 43 against.

Secretariat.

In the absence of full details, it is not clear to what subject this refers to. If it refers to the recent amendments re the payment of court fees in instalments and splitting up of succession certificate applications, action is being taken in the Legislature to amend the sections

Yes.

Legislation

IV. Bill to Amend the Mysore Court Fees Regulation

In paras 384 and 385 of their report, the Laws' Delays' Committee point out that the present practice is for the whole of the court fees being paid at the time of the institution of the suit or appeal and if the suit or appeal is disposed of without contest by agreement of the parties, the plaintiff or appellant is entitled to a refund of half the amount of fees paid on the plaint or memorandum of appeal under Section 17A of the Mysore Civil Courts Regulation. Having regard to representations made in the Representative Assembly for the payment of court fees in instalments and to the observations of the Indian Taxation Enquiry Committee, the committee recommended that the plaintiff should be called upon to pay at the time of the institution of the suit only half the court fees payable under the Court Fees Regulation and if the suit passes on to the stage of contest, the plaintiff may be called upon to produce the balance of court fees within a fixed time and the suit proceeded with further.

It is proposed to give effect to this recommendation.

Under Article 12, Schedule I, of the Court Fees Regulation, when the value of a debt or security for which succession certificate is required exceeds Rs. 5,000, it is possible by splitting up the claim to evade payment of a higher fee. In order to avoid this, it is proposed to amend Article 12.

MESSRS. N. SURAPPA, RAMAKRISHNAIYA and B. NARASINGA RAO commended the measure to the Assembly as a very desirable reform.

MESSRS. G. PARAMASIVIAH and others, on the other hand, opposed the measure on the ground that part payment of the court fee would tend to prolong the disposal of suits as lawyers would be forced to take time to collect from their client the balance of the court fees at the time of contesting the suit.

THE DEWAN explained that this Bill was the outcome of the representations made in the Assembly persistently for years together and that it was one of the many reforms recommended by the Laws' Delays Committee.

The proposal was then put to vote and carried, 107 voting for and 43 against.

Extract of paras 337 and 338 from the report of the Indian Taxation Enquiry Committee, 1924-25.

Modifications suggested in the Indian System.

337. In the conditions in India the system now obtaining under which the fees are fixed on a graduated and progressive scale by reference to the value of subject matter litigated is, subject to the recommendation which the Committee make below, a suitable one and to be preferred to any attempt to measure the cost of the service in individual cases.

The possibility of modifying this system in the direction of securing a closer adherence to that of basing the fee on the cost of the service rendered is indicated by proposals that have been made that a refund should be granted, or a lower fee charged, (1) in the cases of suits decided ex-parte, and (2) in the case of those settled by agreement or compromise.

The proposal regarding ex-parte funds is no new one. A provision which allowed for refund on a decision or disposal based on an agreement or compromise was in force under the Code of Civil Procedure of 1859, and again under the Stamp Act of 1862, and even now, under the Presidency Small Cause Courts Act and the Madras City Civil Courts Act, half the fee is repayable if the suit is settled by agreement before the hearing. These provisions, however, are not entirely satisfactory. An ex-parte disposal is not necessarily a speedy one, and an ex-parte decree may mean that the party who brought the suit has been using the court as a debt-collecting agency. Similarly suits settled by compromise out of court sometimes involve numerous enquiries and expensive proceedings connected with interlocutory applications for arrest or attachment before judgment and the like. At the same time, the benefit con-

ferred

24

conferred upon the litigant by a system of refunds is problematical, since, apart from the considerable time taken and the expense of obtaining the refund, it is more than doubtful whether the whole of the money refunded will ever reach the pocket of the party who has paid the fee.

The Committee's proposals.

338. The other system which, while it is free from latter objection, is still subject to the former, is that in force in the County Courts in England, under which the fee is paid in two instalments, one at the institution of the plaint and the other at the trial or hearing, and in cases where judgment is entered up by consent or in the absence of the defendant the hearing fee is only one half of the hearing fee which is payable in other cases. The Committee are disposed, on full consideration of the matter, to recommend that effect should be given to the principle of measuring court-fees by the cost of the service rendered to the extent of taking the fee in two instalments, the first being payable at the institution of the suit, and the second on or immediately after the settlement of ~~the~~ issues.

****

'Copy'

KNN

25

To

The Registrar,

Chief Court of Mysore.

Sir,

I am directed to request you to kindly furnish information together with statistics in respect of the following matters:-

Among the suits (both Original and Small Cause) disposed of without contest during 1926-27

i. how many suits were decreed exparte;

ii. how many were appeals to disposed of ~~ex-parte~~

iii. How many of them were revived;

iv. How many of the suits were Small Causes;

v. What is the total value of the Court fees derived in cases decided ex-parte:- & not revived

(a) in original suits.

(b) in small cause suits; &

(c) appeals.

The information may be kindly furnished early.

I have, etc.,

28/1 Secretary to Govt.,

Law Dept.

KNN

Information
to be called for.
1/26

Among suits what are ex-

(i) How many ex-parte decrees

(ii) How many of them were revived:

(iii) ~~What is the~~ How many of them are small cause cases

(iv) What is the total value of the court fee derived through ex-parte decrees in (a) in original suits (b) in small cause suits (c) in other suits:

A. C. Sen Gupta.

12/1/28

NOTIFICATION.

No. 1684—*L. C., dated 14th November* 1927.

Under Rule 8 of the Rules for the Conduct of Business of the Mysore Legislative Council, the accompanying Bill further to amend the Mysore Court Fees Regulation, 1900, is published for general information with the Statement of Objects and Reasons.

By Order
B. NAGAPPA
Ex-officio *Secretary*,
Mysore Legislative Council.

BILL FURTHER TO AMEND THE MYSORE COURT FEES REGULATION, 1900.

Whereas it is expedient further to amend the Mysore Court Fees Regulation, 1900; It is hereby enacted as follows :—

1. This Regulation may be called the Mysore Court Fees (Amendment) Regulation, 192 .

2. To section 3 of the Mysore Court Fees Regulation, 1900, the following proviso shall be added :— Proviso to section 3 of Court Fees Regulation, 1900.

" Provided that if such document is a plaint or memorandum of appeal before a Civil Court of original or appellate jurisdiction, the fee to be paid in respect of that document shall be as follows :—

(1) Half the amount indicated in either of the said schedules as the proper fee for such document, at the time of the institution of such suit or memorandum of appeal and no further fee if such suit or appeal is disposed of without contest by agreement of parties; and

(2) If the suit or memorandum of appeal is not so disposed of, the other half of such amount—

(i) in Original Suits at the time the issues are framed,
(ii) in appeals before they are heard, and
(iii) in Small Cause Suits before evidence is let in.

3. In Schedule IV of the said Regulation, insert the following as the 4th item :—

Year	No.	Short title or subject	Extent of Repeal
1883	1	The Mysore ivil Courts Regulation.	Section 17A.

4. In Article 12 of Schedule I of the Mysore Court Fees Regulation, 1900, the following proviso shall be added to paragraph 1 in the third column of the schedule, *viz* :—

"Provided that when the amount or value of any debt or security to which the certificate is extended together with the amount or value of the debt or security to which the original certificate was granted exceeds Rs. 5,000 the duty chargeable on the extended certificate will be such as to make the total fee on both the certificates equivalent to three per centum on the aggregate value of the debts or securities."

STATEMENT OF OBJECTS AND REASONS.

In paras 384 and 385 of the report, the Laws Delays' Committee point out that the present practice is for the whole of the court fees being paid at the time of the institution of the suit or appeal and if the suit or appeal is disposed of without contest by agreement of the parties, the plaintiff or appellant is entitled to a refund of half the amount of fees paid on the plaint or memorandum of appeal under section 17A of the Mysore Civil Courts Regulation. Having regard to representations made in the Representative Assembly for the payment of court fees in instalments and to the observations of the Indian Taxation Enquiry Committee, the Laws Delays' Committee recommend that the plaintiff should be called upon to pay at the time of institution of the suit only half the court fees payable under the Court Fees Regulation and if the suit passes on to the stage of contest, the plaintiff may be called upon to produce the balance of court fees within a fixed time and the suit proceeded with further.

2. Clause 2 of the Bill gives effect to this recommendation of the Committee so as to allow parties to pay half the court fee when filing a suit or memorandum of appeal and the other half, only if the suit or memorandum of appeal is not disposed of without contest by agreement of parties.

3. *Clause 4 of the Bill* :—Under Article 12 Schedule 1 of the Court Fees Regulation, when the value of a debt or security for which succession certificate is required exceeds Rs. 5,000, it is possible by splitting up the claim to evade payment of a higher fee. In order to avoid this, it is proposed to amend Article 12 as in the Bill.

Bill further to amend the Mysore Courts Fees Regulation, 1900.

Whereas it is expedient further to amend the Mysore Court Fees Regulation, 1900, it is hereby enacted as follows:-

1. This Regulation may be called the Mysore Court Fees (Amendment) Regulation, 192 .

2. To Section 3 of the Mysore Court Fees Regulation, 1900, the following proviso shall be added:-

Proviso to section 3 of Court Fees Regulation, 1900.

"Provided that if such document is a plaint or memorandum of appeal before a civil court of original or appellate jurisdiction, the fee to be paid in respect of that document shall be as follows:-

(1) Half the amount indicated in either of the said schedules as the proper fee for such document at the time of the institution of such suit or memorandum of appeal and no further fee if such suit or appeal is disposed of without contest by agreement of parties; and

(2) the other half of such amount

(i) in Original Suits at the time the issues are framed,

(ii) in appeals before they are heard, and

(iii) in Small Cause ~~cases~~ suits before evidence is let in,

if the suit or memorandum of appeal is not so disposed of

(28)

3. In Schedule IV of the said Regulation, insert the following as the ~~3rd~~ 4th item.

Year.	No.	Short title or subject.	Extent of Repeal
1883.	I	The Mysore Civil Courts Regulation.	Section 17 A.

4. In Article 12 of Schedule I of the Mysore Court Fees Regulation, 1900, the following proviso shall be added to paragraph 1 in the third column of the sche-dule, viz:-

"Provided that when the amount or value of any debt or security to which the certificate is extended together with the amount or value of the debt or security to which the original certificate was granted exceeds Rs.5000/- the duty chargeable on the extended certificate will be such as to make the total fee on both the certificates equivalent to three per centum on the aggre-gate value of the debts or securities."

4/10

KNN

STATEMENT OF OBJECTS AND REASONS.

In paras 384 and 385 of the report, the Laws' Delays' Committee point out that the present practice is for the whole of the court -- fees being paid at the time of the institution of the suit or appeal and if the suit or appeal is disposed of without contest by agreement of the parties, the plaintiff or appellant is entitled to a refund of half the amount of fees paid on the plaint or memorandum of appeal -- under Section 17 A of the Mysore Civil Courts Regulation. Having regard to representations made in the Representative Assembly for the - payment of court fees in instalments and to the observations of the Indian Taxation Enquiry - Committee, the Laws' Delays' Committee recommend that the -- plaintiff should be called upon to pay at the time of the institution of the suit only half the court fees payable under the Court Fees Regulation and if the suit passes on to the stage of contest, the plaintiff may be called upon to produce the balance of court fees within a fixed time and the suit proceeded with -- further.

Clause 2 of the Bill gives effect to this recommendation of the Committee so as to allow parties to pay half the court fee when filing a suit or memorandum of appeal and the other half, only if the suit or memorandum of appeal is not disposed of without contest by agreement of parties.

Clause 4 of the Bill:- Under article 12 Schedule I of the Court Fees Regulation, when the value of a debt or security for which succession certificate is required exceeds

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GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Office of the Dewan of Mysore

Dated, Bangalore, November 1927

No.

Mr. K. Chandy, B.A., Member of the Mysore Legislative Council, is hereby permitted to introduce a bill to amend the Mysore Court Fees Regulation, 1900,

at a meeting of the said Council, subject to the rules for the time being in force under the Mysore Legislative Council Regulation, 1923.

K. Chandy

Dewan of Mysore.

The Chay

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PUBLIC OFFICES BUILDINGS.

Dated, Bangalore, 1st November 1927.

FROM

Rajasabhabhushana

K. Chandy Esq., B.A

First Member of Council.

To

Amin-ul-Mulk Mirza M. Ismail Esq., O.B.E., C.I.E.,

Dewan of Mysore.

SIR,

I beg to request your sanction in writing under section 9 (i) of Regulation XIX of 1923 for introducing a bill to amend the Mysore Court Fees Regulation, 1900,

---

at a meeting of the Mysore Legislative Council.

I have the honor to be
Sir,
Your most obedient servant

K. Chandy

Member